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Subject: proposed amendment to MCR 7.215(C)

I oppose the proposed amendments to MCR 7.215(C) for the reasons stated by Justice Markman.

It would appear nonsensical for the Court to make decisions that should not be considered part of the body of law of our state. All of the Court's decisions, published or not, are in accordance with the law and instructive as to the interpretation of law. To prohibit or require an extra burden when citing an unpublished decision essentially would mean that the Court's unpublished opinions are "not so much law" or are "not really law" or are "only kinda sorta law" when in fact unpublished decisions are law and they are binding.

Further, the Court should not put itself in the position of deciding a case a particular way and then forever having an "out." Even if the Court never uses it's the decision to publish or not publish its opinions as to pick and choose outcomes for particular parties, treating unpublished opinions as "not so much law" puts the Courts in the position of appearing selective in their decision making and selective in such a manner that it cannot be held accountable. A court rule such as this breeds mistrust in the system when the essence of what makes the system work is that people trust it to work. Failure, over time, to appear to be fair and just breeds not only contempt in the system but also people taking justice into their own hands. Rewriting this rule does not correct a problem - the bench remains free to find unpublished opinions more or less persuasive. However, rewriting does create problems that here to for did not exist.

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